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maine townsman

The Magazine of the Maine Municipal Association

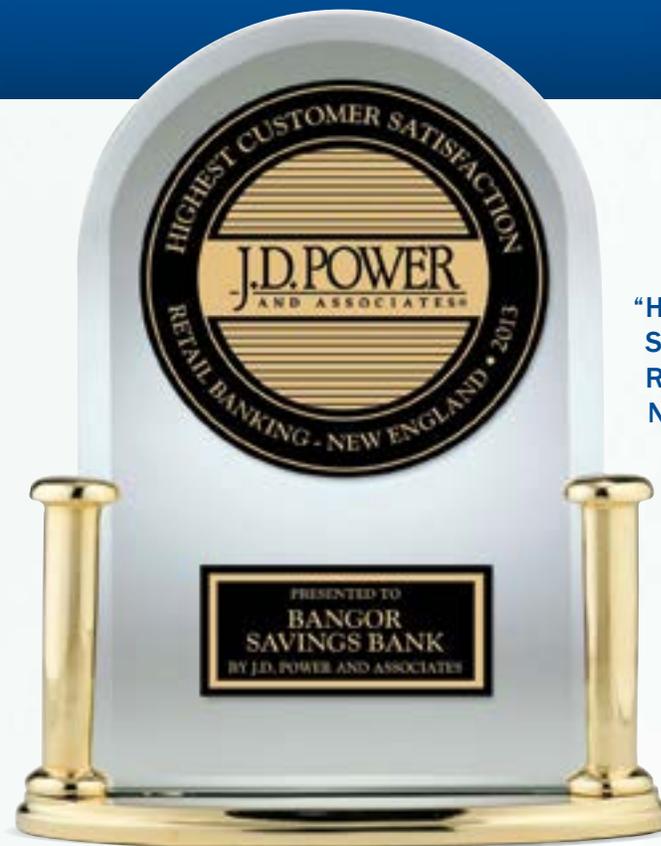


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The Magazine of the Maine Municipal Association

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Maine Municipal Association President Peter Nielsen recently traveled to Quebec to discuss rail safety. A not-so-surprising lesson: One can never have too many friends, from local first responders to supportive neighbors across the border.

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An Air National Guard firefighting unit based at Bangor International Airport serves seven – or more – municipalities in the Greater Penobscot region. This article examines the extent of their fire-rescue bonds.

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OK, Maine is the oldest state in the nation and it's getting older. We get that. Along with the challenges of serving an older population, there can be opportunities. From Blue Hill to Saco, municipalities see both sides of the coin.

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Information security, workers compensation audits and dealing with extreme cold snaps are among the timely topics explored in this month's Risk Manager.

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Town-gown relations have been occasionally difficult for, like, ever. Smart municipal leaders realize the potential that college faculty and students hold and find ways to cash in on the talent, energy and expertise.

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The Maine Townsman's municipal-training series concludes this month with an article from EMCC, which stresses a practical approach to higher education, noting that municipalities are key employers.

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COVER PHOTO: This submitted photo shows a "controlled burn" exercise involving an aircraft at the Bangor International Airport.



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A Message From MMA



By Peter Nielsen, MMA President and Manager, Town of Oakland

'You Can Never Have Too Many Friends'

When the invitation came for Maine Municipal Association to participate in a cross-border event with the Union of Quebec Municipalities, my first thought was, "Oh no, something else." That's when I reclaimed a favorite piece of advice: You can never have too many friends. I think what's true for individuals can be true for municipalities and for municipal associations as well.

Chris Lockwood and I accepted the invitation and drove to Lac Megantic, Quebec, where we saw the after effects of the railroad disaster in July. It was clear to us that the survivors in that community had no better friends than their stalwart firefighters and scores more who came from surrounding towns and cities, including some from Maine. They came with foam, equipment, and training and together saved a significant portion of the downtown. Later, among the efforts of many, many people, the Town of Farmington energized a number of Maine municipalities to contribute a sizeable sum toward Lac Megantic's recovery efforts. The rebuilding now underway also reflects the value of good will with higher levels of government, as well as one's neighbors.

Our participation with UMQ, the Vermont League, the New Brunswick AFM, and local officials from Illinois, on the general question of railroad safety was also responsive to the disaster. How could we not? Next time, it could be us, as it was in 1998 during the Ice Storm recovery, when the Canadian power company trucks were here helping us get the lights back on.

The railroad safety issue transcends municipal, state/provincial and national

boundaries. The train that wrecked started in North Dakota, crashed in Quebec, and was headed through Maine to New Brunswick. We are not at the usual end of the line, but found ourselves in the middle. It therefore seems like a no-brainer that Maine Municipal Association should make friends with UMQ and other peer groups. Yet, according to Chris and Martine Painchaud, newly hired Director of International Relations for UMQ, this was the first international event for both organizations. It appears to me that energy and climate issues are obvious topics for further discussion and work. Advancing these issues gathers notice and produces effects we might never gain working separately. I hope our visit becomes the first of many conversations between and among friends. There was talk of meeting next in March in Washington, DC to further rail safety for all our citizens in Maine, New England and the Canadian provinces. I hope we will invite the UMQ to our next convention in October.

Our conversation revealed that the railroad industry surprisingly may support certain safety improvements. The bigger the entity we bring to those conversations, the better success I think we will have, but let's seek the common objectives.

I came back with a handful of business cards and small gifts that represent the good will we found, and the possibilities they portend for our new relationship. There's something uplifting in a new friendship, and that's just as true for MMA, or any community, as it is for us as individuals. Happy New Year! Bonjour! 



Peter Nielsen (center) participates in a panel discussion in Quebec. (Photo by Christopher Lockwood)

Welcome to the Maine Resource Recovery Association

MRRRA was formed with the intent to foster professional solid waste management practices in the recycling and solid waste arena.

MRRRA is committed to the development of environmentally sound solid waste practices and other forms of resource recovery that will benefit Maine communities.

Some of the goals of the organization are as follows:

- Facilitate communication between Association members, recycling markets, equipment suppliers, State and Federal government, and national associations, as well as information exchange among members.
- Assist with the marketing of recyclable and reusable materials.
- Compiling information relevant to the education and technical needs of Maine recycling programs.
- Promoting market development and providing cooperative marketing opportunities.

The September 2013 issue of The Scrap Paper, MRRRA's newsletter, is now available for download:

<http://www.mrra.net/wp-content/uploads/2013-September-Scrap-Paper.pdf>

Our Mission

The Purpose of Maine Resource Recovery Association is:

- To foster professional solid waste management practices;
- To further the development of recycling and other forms of resource recovery as cost-effective components of environmentally sound solid waste management in Maine communities; and
- To assist with the marketing of recyclable and reusable materials.

The Goals of the Association

- Promoting communication and information exchange between Association members and markets, equipment suppliers, State and Federal Government, and other State and national associations, as well as information exchange among members.
- Compiling and development of other information relevant to the education and technical assistance of Maine solid waste management and recovery programs.
- Promoting market development and providing cooperative marketing opportunities.

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Guard Fire Unit Serves Many Communities

By Janine Pineo

Firefighters plan for worst-case scenarios. So what would happen if Fire & Emergency Services for the Maine Air National Guard 101st Air Refueling Wing wasn't located at Bangor International Airport?

"It would be a very immediate and drastic change for the airport," said Tony Caruso, BIA airport director. "It would be a game changer for us, to say the least."

There are no known plans to change the home of the "MAINEiacs," but how the 101st FES is involved in Bangor, with nearby municipalities and throughout the state is crucial in emergency planning.

To appreciate the reach of the 101st FES, one needs to understand the role of Guard firefighters at the airport, not only for the refueling wing, but for the facility itself – and mutual-aid agreements with seven municipalities: Bangor, Glenburn, Hampden, Hermon, Levant, Newburgh and Veazie.

FES also provides aid within a 15-mile, straight-line radius from its location at the foot of the Bangor Airport's control tower, whether an aid agreement exists or not.

Education is another component of what FES offers, from training in nearby towns for flight-path familiarization to participating in disaster planning at other airports statewide.

Then there is the equipment. According to Caruso, Bangor has considered the impact on the city without the 101st. The cost to Bangor within the first three years has been projected at \$3 million, he said, with most of that in equipment purchases and then finding and employing personnel.

As for the highly trained personnel, about half of the full-time FES firefighters also work in local fire departments, bringing a level of knowledge that volunteer departments would find difficult, if not impossible, to fund for training.

"We are really fortunate that we have guys who work here and out there," said Bangor Fire Chief Scott Lucas.

'ABILITY TO HELP'

Master Sgt. Jeremy LeClair is the installation fire chief for the Maine Air National Guard and the man who knows what role FES plays in the Guard, at BIA and for municipalities near and far.

"We have the ability to help out more than just the ones we have agreements with," he said.

First and foremost, LeClair said, his firefighters provide Aircraft Rescue and Firefighting, better known as ARFF, for the 101st Air Refueling Wing. They also serve the airport at no cost as part of the joint-use agreement, according to Caruso.

"We respond to every aircraft problem at BIA," LeClair said. "We work together jointly to handle all the aircraft emergencies that come into Bangor."

FES is trained in Confined Space Rescue, LeClair said, which is overseen by the Occupational Safety and Health Administration. "You know

those people who go down in a hole and drag people out?" LeClair asked. "That's it."

He offered a fuel tank as an example of a place where someone could be trapped or a fire could burn. FES firefighters are trained to handle those emergencies.

FES has a third area of expertise, that of structural firefighting. Bangor Chief Lucas said the city is responsible for the structures at the airport, although FES monitors alarms for all buildings belonging to the 101st and two other hangars.

"We respond to those as any fire department would," LeClair said. "Structural responsibility falls to the City of Bangor. Their apparatus are built to deal with those fires. Ours can do that work, but we need to maintain fire protection on the airfield."

Forty-one full-time firefighters serve on the 101st FES, LeClair said, keeping the facility staffed 24 hours a day, seven days a week. Each shift is 24 hours with 48 hours off.

Caruso said that the 101st FES is rated to handle even the most challenging fires, scenarios that require the most training. "They can handle almost any aircraft," the airport director said, pointing out that replacing such a level of competency would be difficult if the 101st left and it immediately "would impact our international business."

COLLABORATION CORNER

This article continues a regular feature in the *Maine Townsman*, highlighting ways that municipalities work together to become more efficient and better serve citizens.

Maine Municipal Association • www.memun.org

Janine Pineo is a freelance writer from Hudson, jepineo@gmail.com

TRAINING REQUIREMENTS

LeClair detailed the extent of training an FES firefighter is required to attain. It typically starts with 13 weeks at Goodfellow Air Force Base in San Angelo, Texas. Once complet-

ed, the firefighter returns to Maine to work his or her way through extensive requirements, finishing in about two years. All members must be licensed on every piece of equipment, too

“You really have to be dedicated

to follow through,” LeClair said. “It is more than just driving the truck.”

His crew members have done their time, he said, explaining that many have worked in other fields previously and bring valuable knowledge to this role. “I have more degrees than a thermometer around here,” LeClair said.

The training does not end once each level is reached. LeClair said there are two to three hours of training per shift, to stay on top of Federal Aviation Administration standards, as well as OSHA requirements. There is a two-page spreadsheet of U.S. Department of Defense items that must be maintained.

With about half of FES firefighters volunteering in municipal departments around the state, LeClair said, “We’re giving them (municipal departments) a massive amount of skill sets.”

Hermon Fire Chief Ray Pipes is well aware of the benefits of having not only a mutual-aid agreement with the 101st FES, but also the experience of its firefighters. He noted that the 101st’s training in confined space and high-angle rescue would be un-



Controlled burn practice at Bangor International. (Submitted photo)

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usual for many small towns.

“Because of their deployment around the world, they have guys who may have seen that weird stuff,” Pipes said.

Three FES firefighters serve part-time with his department, giving him better knowledge of the resources that exist just miles away at BIA.

BIG TANKER

One of those assets is the piece most requested by Hermon: a 5,000-gallon water tanker. “We have very few pressurized hydrants,” Pipes said. The tanker provides a steady supply of water, supplementing Hermon’s tankers, the biggest of which holds 3,200 gallons.

LeClair said that most municipalities have 1,000-gallon tankers and his unit’s 5,000-gallon tanker is the most requested piece of equipment by other departments. LeClair recalled a 2011 fire in Winterport at Calvary Apostolic Church, saying: “We hauled three tank loads of water.”

Another regular request would be one of the two foam-resupply trailers, which have to feed the foam into an engine for mixing and dispersal. The



First responders attend to an accident “victim.” (Submitted photo)

foam is used to smother an ignition source, such as jet fuel.

Trenton Fire Chief Richard Gray knows the value of the foam trailer. His volunteer department provides ARFF coverage for the Hancock

County-Bar Harbor Airport in town.

“If there was a big incident where we need a lot of foam, they (the 101st FES) are the closest to us,” Gray said. The foam “will put a blanket over it so the fumes won’t reignite.”

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The Trenton airport also works with the FES on disaster drills, said Airport Manager Brad Madeira. Exercises bring the involved parties together to have a theoretical discussion on how each would respond and work within the crisis.

Next year is a full-scale exercise, which is required by the FAA every three years. It takes about three months to plan, Madeira said, and will show coordination between the various groups that would be called on during a disaster.

LeClair said that his department has helped the Hancock County-Bar Harbor Airport “gear up, run it, critique it.”

ISLAND CRASH

Sometimes it is the expertise in dealing with aircraft that the firefighters need. Such was the case in January 2010 when a small Cessna crashed on Olamon Island in the Penobscot River, killing the pilot.

Milford Fire Chief Chris Matson’s department was among several that looked for the plane, which had radioed a distress call to say it was icing up. The 101st FES dispatched crew to follow the expected flight path, but the plane crashed before it could reach Old Town. Matson said that FES crew’s knowledge of the flight path, the aircraft and its set-up helped rescue personnel pinpoint the location.

LeClair said FES’ medium-rescue vehicle with crew was sent to help. “It’s just something that fire departments aren’t used to dealing with,” he said.

Matson, too, is familiar with what the 101st FES can do. “One of my assistant chiefs here has worked the Air National Guard,” he said. “The best part is that all of (LeClair’s) guys are structural, too.”

“We do have a really good working relationship,” said Bangor’s Chief Lucas. “If we need them, we can call them for their expertise.”

It is a balancing act, LeClair said. FES has to maintain minimum crew and equipment at the runway according to regulations and only if he has more people available can his department send aid to a municipality in need. In the end, however, help typically is just a phone call away. 

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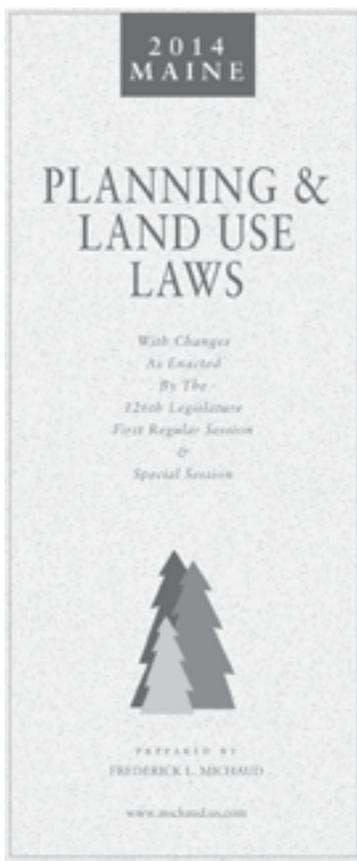
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Aging Population Presents Challenges

By Lee Burnett

Every morning in Bath, the police department telephones seniors living alone to check on their well being.

In Wiscasset and Damariscotta, a network of single family homes has been developed as a low-cost, homey alternative to assisted living facilities.

Saco is promoting itself as an “age friendly” community by working to improve everything from public transportation and sidewalks to housing options and opportunities for social inclusion.

Maine is starting to come to grips its status as the oldest state in the nation, a distinction it first earned about a decade ago and likely won’t soon shake. House Speaker House of Representatives Mark Eves convened a Roundtable on Aging in September.

The same month, AARP and the Maine Area Agencies on Aging published “Building a Collaborative Community Response to Aging in Place.”

And Independent Gubernatorial candidate Eliot Cutler is basing his campaign at least partly on his analysis that Maine’s economic competitiveness depends on addressing the state’s aging demographics. “Perhaps Maine’s biggest single challenge is our age,” Cutler, 67, wrote in his book “A State of Opportunity, a plan to build a healthier, smarter, stronger, younger and more prosperous Maine.”

An aging population is often viewed only as a challenge. More people will require health, housing and transportation services. Retiring Baby Boomers will strain the job market. More people will be eligible for entitlement programs at a time when deficit-minded policy makers are cut-

ting them back. But an aging population also brings opportunities. Older people have time, inclination and life experiences to volunteer and are still a largely untapped resource in many communities.

ALONE, VULNERABLE

You may have seen the headlines:

- “Scams targeting elderly on the rise” Bangor Daily News, June 15, 2013.
- “Maine AG warning elderly of phone scam” Kennebec Journal, May 30, 2013.
- “Jamaican lottery scam’ bilking senior citizens of millions” Portland Press Herald, March 10, 2013 and Maine Townsman, June 2013.

This is the heartbreaking side of Maine’s aging demographic. One third of Mainers 75 and older live alone, according to a 2010 report by AARP. They can be overwhelmed by the responsibilities of homeownership or just plain lonely, making them vulnerable to health problems and exploitation, according to Jessica Maurer, executive director of Maine As-

sociation of Area Agencies on Aging.

“They’re living in houses falling down around them. They don’t want people to know the roof is leaking. They’re afraid to go into assisted living,” she said. “There are people hanging out there on a thread all over the state of Maine.”

Not surprisingly, Maine’s aging demographic makes Maine a ripe hunting ground for schemers, she said. Scams against the elderly, particularly if they are done by out of state phone scammers, are rarely prosecuted because of jurisdictional and resource issues, she said.

Elderly people living alone are not just a family problem, said Maurer. They drive up cost for municipal taxpayers by calling police, fire and rescue services more than they really need to, she said. Half the calls answered by Harpswell EMTs, for example, turn out to be for treating elderly people for dehydration, she said.

The list of fixes that could improve the lives of seniors is a long one: improving transit services; building more senior-friendly housing; opening a se-

Lee Burnett is a freelance writer from Sanford and regular contributor to the Maine Townsman, leeburnett_maine@hotmail.com.



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nior center; and, extending sidewalks. Many of them are also expensive and likely not practical except in urban parts of Maine. So, what's a small town to do?

"The first step is to not run into this foolishly," said Maurer. Investing effort in what a few town officials think is important could be counter-productive, she said. She recommends developing a plan of action based on a bottom-up brainstorming process to identify what is needed.

BOWDOINHAM EXAMPLE

That's exactly what Bowdoinham did in 2012. It led to publication of a 40-page report ("Aging in Bowdoinham, Maine,") and an explosion of concerted volunteerism, much of it by seniors themselves.

"What we have that's unique is zero budget," explained George Christopher, a cattle and sheep farmer who chairs the committee. "If someone wants to start with zero (money) and make use of what you've got, then

we're an example."

A priority in Bowdoinham is supporting seniors so they can remain at home. It's what seniors prefer because it keeps them healthier and more fulfilled, and it's less expensive than institutional settings, he said.

"Just look at the newspaper list of elderly housing," he said, noting a project in Brunswick, where there are three times more people waiting to move in than there are units. "It's not a sustainable thing. You can't build your way out of it."

In Bowdoinham, volunteers started an exercise group that meets at the local fire station, created a gathering spot for seniors in a church basement one day a week, lobbied for new options at the technical school – such as home visits as part of health occupation program and home modifications as part of the building trades program.

About 10 years ago, Bath started a free morning check-in service for seniors out of a concern about their isolation. Every morning, a reception-

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ist at Bath police department telephones the home of any senior who asks to check on their well-being. If the phone goes unanswered, police follow up with a visit.

The "Good Morning Project" has given seniors an added sense of security and gives distant family members peace of mind knowing that someone is checking daily on their elderly family members, according to police Chief Mike Field. In a few instances, police have provided timely intervention to a senior who had fallen, he said.

"Thankfully, they were discovered – not in a matter of days – but at least within 24 hours," Field said.

About a dozen seniors take advantage of the program at any given time. It has spread to the Sagadahoc County Sheriff's Department, Brunswick and Freeport, he said. "We're always trying to expand it," said Field. Pamphlets about the program are made available to outpatient services at the hospital, local physicians' offices and senior centers, he said.

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One of the most ambitious home support networks exists in rural Hancock County. For an annual fee (anywhere from \$100 to several thousand dollars depending on income and services), seniors in Blue Hill have access to a menu of services – rides to medi-

cal appointments, grocery delivery, home safety assessments, companionship, home repair and others.

As its name suggests, "At Home Downeast" is aimed at supporting people at home so they don't have to live in an institutional setting. At Home

SENIOR IDEAS

Many low-cost, home-grown initiatives are sprouting up around the state to support seniors. The following list comes from the "Building a Collaborative Community Response to Aging in Place" report.

Good Morning Project

This is a free service provided by the Bath Police Department. Participants call the police department every morning to check in. If the receptionist does not get the call by 10 a.m., she calls the participant. If she is unable to make contact, an officer is dispatched to the home to make sure the person is safe.

Friends of Aroostook County

This all-volunteer program grows vegetables on land lent by volunteers and distributes them through the Meals on Wheels program. It has expanded to include distribution of donated firewood too.

Aging in Bowdoinham

Volunteers have opened a senior center, where lunch and social activities are available one day a week. A local church provides bus transportation to those who need it. The program grew out of a community planning process.

TRIADS

This is a network of community support groups throughout Maine organized to prevent elder abuse. Groups are comprised of law enforcement, community organizations and seniors. Many groups support people wanting to live more safely at home by distributing 911 cell phones and safety "Go Bags" for emergencies, by providing "sand brigades" of volunteers who sand icy driveways for older residents, or by providing good morning calling programs.

Deer Isle Plus

This membership program in Stonington and Deer Isle provides support services that allow residents to continue living at home. For \$100 a year, residents have access to a coordinator who assists in the event of a crisis and a members' website which provides access to available services, contract information, eligibility guidelines.

Midcoast SAIL

This program in Knox and Waldo Counties is an alternative to retirement communities, assisted living or moving in with children. It provides transportation to shopping and appointments; electronics installation and maintenance; and connections to pre-screened service providers. SAIL is part of a national Village to Village Network.

Greater Bath SEARCH

This program matches community volunteers with aging residents in the Bath area seeking to overcome feelings of isolation and loneliness. The program was started by United Way of Mid-coast Maine and is now a service of Catholic Charities.

Elder Care Network of Lincoln County

The network developed seven assisted living facilities in Damariscotta and Wiscasset for folks who cannot afford private assisted living facilities. The affordability (services are reimbursable by Medicaid), home-like environment and in-town locations are attractive to many seniors.

– Lee Burnett

Downeast coordinates 82 volunteers and serves 58 members.

"We're so rural ... We need a lot of volunteers," said Kara Janes, At Home Downeast's program manager. Most of the volunteers are seniors themselves, she said. "They want to support the program as volunteers so it's in place when they need it," she said.

SACO: AGE FRIENDLY

Saco is the first community in Maine to cater to seniors as part of its economic development plan. It started five years ago, when City Councilor Eric Cote pushed the city to amend its zoning ordinance to allow homeowners anywhere in the city to add an in-law apartment.

Cote said he pushed for the change when he realized families wanting to keep family members at home had to jump through unnecessary hoops. Only a few families each year take advantage of the new flexibility, but it means a lot to them, said Cote.

"For families in this situation, it's a real pickle," Cote said. "It may only happen one or two times a year, but it's a big deal."

Saco got serious when people realized that Atlantic Heights – a graduated care, elderly housing development – had quietly become not just the city's largest taxpayer, but one of its largest employers as well, said Economic Development Director Peter Morelli.

It happened almost by chance because city zoning had barred a retirement community to be built in the residential Ferry Road area. The city approved the development under a special contract zone provision. "We were smart enough to (allow) it and it's turned into a huge community asset," Morelli said.

Many of Saco's initiatives – while undertaken on behalf of seniors – fit easily within the "livability" thrust of smart-growth planning. They include exploring options for improving sidewalks, transit and in-town housing. Some areas of concern – such as increasing opportunities for social engagement – are not traditionally seen as municipal responsibilities, he said.

"We don't expect to appoint a director of social inclusion," he said. "We'll work with health and volunteer organization. The city is more or less a convener as opposed to the agent." [mt](#)



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The Municipal RISK MANAGER

JANUARY 2014

A Publication of the Maine Municipal Association

Secure Your Information

Our municipalities often handle personal information about residents, businesses, organizations and their own employees. Records and electronic files that need to be secure and confidential may include billing information, social security numbers, health information, human resources and public school/education data.



Using electronic communications for business transactions and providing public services is becoming a common tool, which has also caused an increase of data breach incidents. Data breaches occur for many reasons, such as a result of innocent errors, internal malicious actions or outside hackers.

A cyber risk generally has the potential to cause loss, injury or other damages as a result of an electronic exposure that could harm the municipality or the public that they serve. Potential activities that may create a risk of a cyber attack include:

- Online credit card payment processing and data retention
- Conducting business utilizing Web sites
- Data retention and storage (online and traditional shipping of paper records or back-up tapes)
- Third party business contractors that access confidential data
- Data held on unprotected laptops or portable devices
- Social media sites that collect and display private information, examples of which include Facebook, MySpace or Twitter.

How to minimize cyber threats:

- 1. Educate Employees.** Have a written policy about sensitive data, procedures and responsibilities.
- 2. Only retain required data.** Only keep the information that you need and consider the creation of a retention schedule.
- 3. Safeguard Data.** Lock records in a secure location and restrict access to employees who need to retrieve

private data. Implement password protection on all computers with a condition to re-login after a period of inactivity. Use strong passwords that are required to be changed regularly.

- 4. Background checks.** Conduct background and reference checks of employees and contractors.
- 5. Shred and Destroy.** Shred paper files before disposing or obtain the services of a private company that specializes in the shredding and disposal of sensitive data.

Story Continued on Page 18

Workers Compensation Audit Time for Payroll Reporting

At renewal each year, members of the MMA Workers Compensation Fund are asked to provide their anticipated payroll so we can calculate the estimated workers compensation contribution for the coming year.



The projected payroll is a useful tool to evaluate future exposures and to ensure that adequate coverage is pres-

ent. We understand that the actual payroll figures can vary considerably from estimates made over a year earlier. A special project may come to an end

earlier than expected, a severe weather incident may occur that requires additional employees, or a position may remain vacant for a long period while

Story Continued on Page 18

Coming Soon: Privacy and Network Security Liability Coverage

During 2014 the Property & Casualty Pool will be offering Privacy and Network Liability coverage to its membership. Privacy and Network Liability is an emerging exposure that typically encompasses the liability associated with the failure to protect the unauthorized release or disclosure of confidential personal information of customers, employees or other sensitive business information. Watch for updates!

Keep Your Cyber Defenses Up *(it is always virus season)*

In our online, mobile society, we are faced with an increasing barrage of cyber threats every day. Whether at work, home, school—virtually every part of our lives is now in some way or another connected to the Internet.

Local governments are not immune to cyber threats. A virus could shut down office computers. A disgruntled former employee could manipulate or destroy important organizational data. A malicious user could use your systems to attack other systems. Cyber security incidents can cripple computers and cause a loss of public confidence. Inadequate cyber security measures can lead to the compromise of sensitive information about organizational operations and its customers.

An organization has a responsibility to safeguard the information with which it is entrusted and to perform its business functions. Following is a list of the top ten cyber security action items recommended by the Multi-State Information Sharing and Analysis Center (MS-ISAC), designated by the U.S. Department of Homeland Security as the key resource for cyber threat prevention, protection, response and recovery for the nation's state, local, territorial and tribal governments.

Designate, in writing, a principal individual responsible for cyber security in order to ensure that proper policies and procedures are in place. Develop a cyber security plan and procedures for responding to cyber security incidents. Establish communication procedures so that everyone knows what, how and to whom to report a cyber security incident or problem.

1. Know how to recognize that you might have a problem, such as a slow or non-responsive computer. Your organization may be experiencing a cyber security incident if it is finding email refused (bounced back) or getting complaints from the users that the network has slow response time.
2. Understand how to deal with problems. Take infected or compromised

equipment out of service as soon as practical. Notify management and other users as appropriate based on your organization's policy. Contact local law enforcement if you suspect a crime has been committed. Review your security policy and practices to determine what lessons can be learned from the incident to help you strengthen your security practices.

3. Physically protect your equipment from security threats and environmental hazards. If traveling with a laptop, never check it in at the airport; keep it with you at all times or in a secure location. Use a surge protector.
4. Protect essential hardware and software. Install, configure and use a firewall, and set your computer to automatically check for new updates. Set your computer to auto-update to ensure you have the latest security patches applied. Install spyware and virus protection software and regularly update. (A firewall does not substitute for anti-virus software.)
5. Control access. Each user must have a unique login (user ID) and password. Establish good passwords—at a minimum, a combination of eight alpha and numeric characters; avoid commonly used words, family names, or other words that can be readily associated with you. "Lock" computers when they are unattended so users are prompted to enter their user ID and password upon return. Don't allow a computer to remember any passwords. Implement an employee departure checklist to ensure account termination is performed.
6. Protect information. Information should be backed up regularly and stored offsite. Periodically test that the information can be reloaded from backups. Install operating system software patches regularly. Handle email and instant messaging with care. Use encryption for information stored on portable devices, such as flash drives. Be cautious of internet

sites you visit.

7. Implement training and awareness programs. Everyone in the organization who uses a computer should be trained to practice safe computing and follow the organization's policy.
8. Develop an Internet and Acceptable Use Policy. When your employees connect to the internet or send e-mail using your organization's resources, it should be for purposes authorized by the organization.
9. Take steps to securely dispose of storage media and equipment. Hard drives and other disposable computer equipment may contain saved information even if that information has been "deleted." Run utilities and/or physically destroy the hard drive to ensure it is clear. 🗑️

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The Municipal Risk Manager

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Pump Damage Hampers Fire Departments

Many communities in Maine do not have, or have only limited numbers of pressurized domestic fire hydrants. In some instances publicly owned water



supplies are inadequately sized or do not provide enough flow water for proper fire suppression. Having water available from area streams and ponds is only helpful if the source is nearby and rapidly available. The installation of "dry hydrants" into nearby water supplies can provide a year-round water source and is a common practice in rural Maine. Correctly designed and installed dry hydrants can provide a simple, cost effective water supply option.

Regardless of the water supply, no fire pump can move water containing debris such as sand, rocks, leaves or vegetation without causing damage to the pump. Whether drafting from a pond or from a dry hydrant, the correct location of the intakes and the proper use of strainers are critical to protecting the pumps. The Property & Casualty Pool has received numerous claims involving damaged pumps due to improper drafting. As an example, while a fire department was performing pump training, they hooked onto a dry hydrant not provided with a strainer. As a result, the pump sucked up debris damaging the pump and impeller

which had to be replaced. In another instance, a fire department hooked onto a dry hydrant that had been used several times prior. On this occurrence, the pump ingested sand due to the use of an improper screen that was designed to stop rocks but not sand and gravel. A third pump was damaged due to gravel being sucked from the bottom of the water source at the dry hydrant. The average cost of pump loss claims in 2012/2013 was \$9400.

When a pump is damaged, not only is the repair or replacement costly, but the ability of the fire department to provide adequate fire protection while the pump is out of service may be compromised. **Helpful tips to avoid pump damage:**

• Never draft from a dry hydrant or directly from a water source without a strainer / screen, appropriately sized for the condition, in place. When training, stress the importance of protecting the pump.

• When locating a dry hydrant, the best composition for the bottom of the lake, stream or pond is sand, gravel or rock or a combination of these. Avoid decaying vegetation that can easily plug the intake screen.

• The intake should be no less than

two feet below the surface to prevent a vortex or whirlpool which could allow air to enter causing the pump to cavitate or loose prime. There should be a minimum of five to six feet of water over the suction screen during low water to prevent a freeze-up of the screen.

- The strainer should be no less than two feet above the bottom of the pond so that the strainer holes will not be clogged with mud or debris.
- The selection of a proper strainer is dependent on a number of factors, including depth of the water source; type of source; flow conditions; water source fluctuations such as drought, flood or water releases; bottom type and conditions; floating and suspended debris; aquatic growth; vertical lift and desired flow rate.
- Dry hydrants require frequent inspection; quarterly is recommended. This may need to be more frequent in warm water, low flow locations. Keep records of all inspections and repairs. Hydrants should be tested with a pumper once a year and back flushed as part of a training exercise.
- When drafting from farm ponds, streams or rivers both shallow and deep or from drop tanks a floating strainers should be used. Floating strainers are available that operate below scum and debris and above sand and muck. This will strain out materials that wear impellers, packing and bearings.
- Using a dry hydrant or drawing water directly from a river or pond will introduce materials that over time can damage the pump system. When possible, following drafting operations or a water shuttle where stagnant water is used, it is good practice to drain the tank, flush valves and drains and refill the tank from a municipal water supply.

* NFPA 1142, "Standard on Water Supplies for Suburban and Rural Firefighting" provides information on planning, design and installation of dry hydrant systems. ■

Cold Snap = Property Damage

During the winter months our public buildings are in danger of becoming the next victim of the FREEZE. It is important that we remember to routinely inspect all buildings over winter months and especially during vacation and holiday breaks to ensure that the buildings are properly heated and that all water distribution systems including sprinkler systems are not frozen. Such inspections are critical after a deep freeze or power outage.

Remember to:

1. Inspect buildings inside and out.
2. Repair and replace broken windows.
3. Eliminate drafts in foundations and framing.
4. Insulate buildings.
5. Plan ahead and winterize all locations. ■

100,000 SERVED!!

In 2004, MMA Risk Management Services partnered with FirstNet Learning, Inc. to provide online safety training through the MMA website. Available at no charge to participating members of the Workers Compensation Fund and the Property & Casualty Pool, the offerings have been updated and expanded several times and now provide more than 50 course titles. As of November 30, 2013, users have taken more than 99,528 courses with a completion rate of 96.8%. We expect to reach the 100,000 course milestone to welcome in the New Year!



What's next? In mid 2014 we expect to expand the website again with the addition of employment liability, workplace ethics, public officials liability and other similar courses. If you have not utilized this valuable resource, we encourage you to visit the MMA website: www.memun.org. Demonstration courses are available to help you determine if online training is right for you. 📌

October Safety Grants Awarded

155 grant applications were received for consideration in the October grant period. Of these, 115 were funded for a total commitment of \$149,493. Safety equipment funded includes ergonomic equipment such as computer workstations; tailgate lifts and manhole cover lifters; firefighter turnout gear; traffic control signs, lights and vests; and fall prevention ice grips. 236 Safety Enhancement Grants with a total commitment of \$302,561 have been approved in 2013. This program continues to be successful and well utilized by Worker's Compensation Fund participants.

To be eligible for a Safety Enhancement Grant, MMA members must participate in the Workers Compensation Fund. Grant requests must be for items that "directly enhance employee safety." Grants are a 2:1 match with a maximum of \$2,000. For more information and applications visit the Risk Management Services section of the MMA website <http://www.memun.org/> or call RMS, Loss Control Department at 626-5583. 📌

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Secure Your Info (cont'd)

6. Digital Deletion. Deleting files and reformatting may not be enough. You may wish to consult with an Information Technology professional and utilize software designed to permanently delete/wipe the drive.

7. Manage Computer Usage. Institute a policy that limits employee use of computers to business transactions. Consider Web Filtering to limit access to unauthorized Web sites and software.

8. Software Security. Ensure that security software is in place and current. Again, this is a time when you may wish to consult with an information technology professional for management and guidance of your antivirus and firewall protections.

9. Data encryption. Data encryption is a common tool utilized to protect data that is being transmitted electronically. Data encryption is also useful to protect portable media that is susceptible to loss. 📌

WC Audit (cont'd)

you search for the ideal candidate. No matter the reason for variation in estimated payroll, we are committed to treating each member fairly. Therefore, the Workers Compensation Fund conducts an actual payroll audit on each member from January to April. You will be contacted by Risk Management Services who handles some audits in house, or by one of our contracted auditors at GEM Associates who will gather the data and forward it to us to process. It would be appreciated if all the necessary paperwork can be available for the auditor to review or is mailed promptly to them for review. The State of Maine mandates that all audits are completed by May 1st of each year for our Workers Compensation Fund.

If you have any questions, please contact the MMA Risk Management Services Underwriting Department at 1-800-590-5583. 📌

Town-Gown Relations: Evolving Best Practices

By Roger L. Kemp

I've been a career city manager and a career adjunct professor, in three states on both coasts of the United States, during my public-service career. I always had an interest in what is commonly referred to as town-gown relations: How officials in communities and schools relate to one another, and how they work with citizens and students to resolve issues before they become problems. There are also many mutually advantageous opportunities to work together on joint projects and programs for the reasons outlined below.

Everyone benefits – public and school officials, as well as the citizens and students that they serve – when proactive town-gown practices are used. A national literature search in this field revealed many state-of-the-art best practices. This research resulted in a new reference volume cited below. The case studies presented in this book came from joint projects and programs being undertaken by cities and schools throughout North America – the United States and Canada.

Some of these evolving and dynamic town-gown best practices are:

Adjunct faculty members and class speakers can come from the municipality in which the school is located.

The city can provide internships for students, who might apply for entry level jobs with them in future years, after they graduate.

*Roger L. Kemp, PhD, ICMA-CM, has been a career city manager and a career adjunct professor in three states (Connecticut, New Jersey and California). He is a Practitioner in Residence, Program Management Program, and University of New Haven. These best practices are reflected in his book: *Town and Gown Relations: A Handbook of Best Practices* (McFarland, 2013). He can be reached via e-mail @ rlkbsr@snet.net.*

Students may seek career mentors and advisers, who can come from their adjunct faculty members as well as the speakers for the school's program, who are employed by the city.

One university formed a program advisory committee consisting of primarily adjunct professors (from many of the municipalities located nearby), who could also provide internships, serve as mentors and advise students on their future public service career options and opportunities.

Some cities provide free rooms/space for a local college or university to hold courses for the public administration program. While mostly city employees enroll in these programs, they may be open to the public.

Some city and school officials jointly form town-gown advisory com-

mittees, which consist of public and school officials, as well as representatives of the citizens and students that they serve. These groups typically discuss local concerns, and resolve them before they become community issues and problems.

The members of these advisory groups, by design, usually consist of representatives from existing community, neighborhood, business and student groups and associations.

Other major issues of concern that town-gown officials can jointly work on include: mutual transit projects, joint parking facilities, community parks in the campus area, as well as possible municipal bikeways and walkways that are located in the campus neighborhood. Town-Gown Advisory Committees are great vehicles to use to



University of Maine at Farmington, in the heart of its host town. (Photo by Ben Thomas)

examine and discuss the issues that are associated with such projects.

Joint Town-Gown Advisory Committees typically review and discuss community concerns before they become city-wide issues and problems, and make joint recommendations to their respective public and schools officials. Their recommendations are typically advisory in nature.

Town-gown officials work together to seek funds from higher levels of government for both separate and joint projects and programs, especially when they are mutually advantageous.

There are multiple opportunities for communities, colleges and universities to jointly participate in these mutually advantageous town-gown projects. These positive practices, which are rapidly evolving, reflect joint efforts where everyone benefits.

In the past, town-gown officials have had misunderstandings based on different loyalties and priorities and the fact that they have separate governing bodies. Over the years, few mutual discussions were held between public and school officials, as well as citizens and students. Nowadays, times are changing, and town-gown officials are increasingly working together for the benefit of both of the groups that they represent – the citizens as well as the students.

Town-gown officials recognize the positive impacts that the academic community has on their municipal government, as well as the value of the

public services provided to the campus by the municipal government. These benefits include: joint employment opportunities; payments for services; mutual city-school projects, programs, and services; and, knowledge of other revenues and taxes generated by the schools located within municipalities.

These evolving town-gown programs and services jointly benefit the members of the municipal and academic communities as noted below.

The citizens, who are educated to realize the economic benefits provided by their school.

The students, who are educated to realize the public service benefits provided by their community.

Public officials, who benefit from the solutions jointly resolved by their citizens and the students working to-

gether.

School officials, who also benefit from the solutions jointly resolved by their students and the citizens working together.

The governing bodies of the cities and school, who jointly benefit by their citizens and students working together to resolve mutual concerns before they become community issues and problems.

Such community and school issues and problems frequently go away because of these joint participatory efforts by the community's citizens and the school's students.

This field is dynamic, and additional best practices will no doubt be analyzed, approved, initiated, evolve and be reported on during the coming years. [\[m\]](#)



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EMCC Works With Many Employers

By Matt McLaughlin, Coordinator of Business and Industry
Eastern Maine Community College

As a higher education institution, it is Eastern Maine Community College's mission to serve the educational needs of Maine's citizens and the workforce needs of the State's employers. The college, one of seven in the Maine Community College System, is lauded for its two-year degree programs in technical, career, and transfer education. We currently serve over 2,550 students, helping them to achieve their education and career goals.

But EMCC's reach extends far beyond those 2,550 students and the walls that make up our Bangor campus. In fact, we are engrained in the business communities throughout all of Eastern Maine, helping various businesses, organizations and yes, municipalities, to achieve workforce growth, training and educational needs.

This is done through our Center for Business and Industry, a community resource that offers customized technical and professional development training, continuing education opportunities, and credit and non-credit course offerings. We work with businesses and organizations throughout Penobscot, Piscataquis and Hancock Counties. Examples include a long-standing relationship with the Jackson Laboratory, mini-split heat pump training for Bangor Hydro and RH Foster, table games training for Hollywood Casino, and training for several regional health-care organizations.

Our workforce trainings are not just limited to businesses. Municipalities, which can be some of the largest employers regionally, face the same

challenges of optimizing resources when it comes to workforce development. Skilled employees are keys to running the multiple facets of a city or town. That is why EMCC offers a variety of training programs to enhance the skills of municipal employees. And like our academic programs (at \$88 per credit hour), our customized training is cost-effective.

Examples of trainings for municipalities range from technical and trade to technology to professional development and management. The benefit of doing workforce training with EMCC is that we have talented faculty and a dedicated staff that are committed to customizing our educational resources to fit the needs of businesses.

GIS TRAINING

One particular offering that highlights our ability to customize train-

ings to a municipality's needs is our Geographic Information Systems (GIS) training. This is a great opportunity for a town or city looking to delve into the technology of GIS for the first time, or to enhance and expand upon an existing foundational knowledge. We offer basic, intermediate and advanced tracks using hands on exercises that cover a host of topics, including: basic tools and navigation, attributes and table data, accessing and importing data, map making, data creation, ge-processing and more.

This GIS training is customized even further. It is built using the actual GIS data of the municipality, enabling employees to train with the data they will work with in the field. This is highly beneficial and not something offered by alternative, costly training programs. EMCC has offered this training for both the City of Bangor and the



EMCC students work on equipment in the machine area. (Submitted photo)

Matt McLaughlin is Coordinator of Business and Industry for Eastern Maine Community College. He can be reached by phone at 207-974-4869 or email at mmclaughlin@emcc.edu.

City of Ellsworth with great success. We have found it very valuable for municipalities, as the use of GIS crosses into many departments: assessing, planning, public works, information technology, public safety, economic development, wastewater, and so forth.

Additional examples of technical trainings include HVAC, heat pump, gas propane, welding, solar PV, energy auditing, electricians' technology and building construction. We can customize any of these trainings to fit with the skill level and needs of your staff and fit the training into an amount of time that works for you. Additionally, training can be offered on campus at EMCC or at an off-campus location that works for your city or town.

What about professional development and continuing education opportunities? These are important for municipalities too. Think about the number of residents your staff interacts with on a daily basis. This makes customer service and communication skills fundamental. Leadership development and process management is also important to keep the various municipal departments in sync and communicating effectively. Towns and cities also have basic IT needs. Proficiency in Microsoft Office Suite is a requirement, and skills in social media and web management are becoming increasingly necessary. EMCC can offer a customized training on all of these subjects.

Even for-credit classes are an option. We have established a number of continuing education partnerships throughout the region, enabling the local workforce to obtain college credit through courses offered at their place of employment.

In addition to serving as a resource for municipalities themselves, EMCC's business and industry training is a service you can leverage for your city or town's existing businesses, or when recruiting new business. In fact, businesses looking to expand and create new jobs, or upgrade the skills of their existing employees, can receive grant funds for community college training through the Maine Quality Centers, a program of the Maine Community College System. The Maine Quality Centers program has helped 228 businesses expand or locate their operations in Maine, representing 12,787 new jobs and \$2.1 billion in related



EMCC faculty, staff collaborate. (Submitted photo)

private investment.

The business and industry department is one that you will find at each community college across the state, enabling municipalities from all over to take advantage of these training opportunities. I would encourage you to visit the Maine Community College System's website to see which college provides services in your area. More information on Eastern Maine Community College's customized training can be found at www.emcc.edu/training. 

EDITOR'S NOTE:

This is the last in a series of Maine Townsman articles from Maine-based institutions of higher learning that have expressed interest in municipal training, education and succession-planning needs. Many of the institutions are updating and changing their offerings. Thus, MMA is allowing college officials to explain programs in their own words one time during this series..

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Land-Use Permitting Process: Slow Down

By Michael L. Stultz, Staff Attorney,
Legal Services Department, Maine Municipal Association

Local governments throughout this country have for the last several decades trended toward seeking contributions from permit applicants to compensate for the influence and results of development on infrastructure and environment. These contributions often take the form of conditions that the permit applicant must satisfy as part of the permit approval. In some cases, these conditions involve the transfer of real property from the applicant to the local government entity as part of a permit approval.

State courts have used a variety of methods to ensure that these conditions were fair as measured against the effects of development. The U.S. Supreme Court entered into this discussion with a pair of cases more popularly known as *Nollan* and *Dolan* (*Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374 (1994)).

Together, these cases stand for the basic principle that the government may condition a land-use permit on the relinquishment of real property only if it can show a “nexus” and “rough proportionality” between the demand made and “the impact of the proposed development” (*Dolan*, 512 U.S., at 386, 391). Explained differently, the government must always compensate a property owner for land the government takes. The government cannot avoid the constitutional requirement to compensate the landowner for taking property by imposing a condition on approval of a permit to develop real property if otherwise the government would have to pay for the land in order to acquire the land.

In a new decision, *Koontz v. St.*

Johns River Water Management District, 133 S. Ct. 2586 (2013), the U.S. Supreme Court decided that this requirement to show a nexus and rough proportionality applies to a payment or expenditure of money. The question is: Does the requirement to pay the government money constitute a taking requiring just compensation? The Court answered, “Yes.”

FACTS

The case arose from a Florida landowner’s application to develop 3.7 acres of a 14.9 acre parcel of land that was classified largely as wetlands by the State. The St. Johns River Water Management District, which had jurisdiction over the land under proposed development, required that permit applicants wishing to build on wetlands offset the resulting environmental damage by creating, enhancing, or preserving wetlands elsewhere within the district. Under the proposal, the property owner would grant a conservation easement on the remaining property. The district considered this proposal inadequate and informed the landowner that it would approve construction only if he agreed to one of two concessions. Under the first alternate, the district suggested the landowner reduce the size of the development to one acre and deed a conservation easement on the remaining land along with the installation of both a subsurface storm water management system and retaining walls. The second alternative would have allowed the property owner to develop the land as desired, but would have required him to hire contractors to make improvements in district-owned land several miles away.

The property owner objected and

filed suit. The case made its way to the U.S. Supreme Court which ruled in favor of the landowner, holding that the district’s alternatives amounted to a wrongful denial of a permit. Specifically, the Court held that “monetary exactions” must satisfy the nexus and rough proportionality requirements of *Nollan* and *Dolan*. A government demand for property from a land-use permit applicant must meet the nexus and rough proportionality test even when the demand is for money, as was the case here.

The Court explained that so long as the district offered at least one alternative that satisfied the nexus and rough proportionality requirements, there was no problem. The problem lay in the suggestion that the landowner develop one acre of land. The Court said that by offering him the option to build on only one acre, it was telling him that he could not build on 2.7 acres without spending money to improve public lands. In limiting the landowner’s proposal to just one acre, the district needed to demonstrate that the requirement to spend money on public lands had a nexus and rough proportionality to the effects of the proposed development. In other words, in denying the landowner the right to develop 2.7 acres the district was taking property away without justly compensating the landowner. It represented an attempt to coerce the landowner without being appropriately related to the government’s legitimate need to offset the public costs of development through land use exactions.

DISCUSSION & OBSERVATIONS

How does this opinion affect local planning boards here in Maine? The

answer is unclear, and the case is so new that the influence of this decision will not be known until more time has passed. That said, it seems reasonable to make some observations:

A reviewing authority should avoid denying a land-use permit on the sole basis that the permit applicant did not accede to a financial or public service condition. Simply because the government does not literally take any property away does not mean that a condition placed on an applicant for a land-use permit, if not agreed to, does not function to the same effect. Based on this decision, a municipal government can be held liable for a taking of property without just compensation if it refuses to issue a land-use permit on the sole basis that a condition was not agreed to but where that condition does not meet the essential nexus and rough proportionality requirements of the Nollan and Dolan cases.

The nexus and rough proportionality tests apply to land-use exactions that take the form of a government demand for an applicant to dedicate money, services, labor, or any other

type of personal property to a public use. This does not mean that a condition that requests an exaction is illegal; it means only that the condition must meet the nexus requirement. So for example, local planning boards and boards of appeal should be careful that when they impose conditions on the issuance of a land-use permit, those conditions not be for the single purpose of funding municipal

projects or expensive building and mitigation projects unrelated to the property under review.

Local boards must be aware to avoid coercive or extortionist practices. Always ask the question about any condition attached to a land-use permit: Does the condition amount to an abuse of power or does it represent, as it should, a reasonable demand, one that makes sense? Bear in

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Read more about Raegan's story >>



mind that monetary impact fees and similar measures to address the costs that a specific development places on a community are legitimate. However, under this new case, any such schemes must be careful to apply the nexus and rough proportionality standards.

A municipal board should thoroughly document the reasons for denying a land-use permit. In granting a permit with conditions, explain fully the basis for the conditions.

Maine has a law (30-A M.R.S.A. § 4354) that allows for impact fees as a means of accommodating the burden of new development. On its face, this law meets the constitutional standards discussed in this brief article, at least with respect to impact fees. The same law also allows for off-site capital improvements. But it provides no guidance to planning boards desiring to exact capital improvements from a developer. Given the results in *Koontz*, planning boards are well advised to ensure that any condition that involves off-site capital improvements should be reasonably related to the development and proportional to the development itself.

CONCLUSION

The Supreme Court’s ruling in *Koontz* determined that the constitutional standard set forth in *Dolan* and *Nolan* applies so that the government can be held liable for an improper taking where the government declines to issue a land-use permit for the sole reason that the applicant refused to agree to non-real property exactions.

Nonetheless, an important point that needs to be emphasized is that planning boards and boards of appeal should not be hesitant to negotiate conditions nor should they be reluctant to seek money in compensation for development (where authorized by law), but in doing so, they should make the nexus and rough proportionality connections. The *Koontz* case does not forbid such monetary exaction schemes; it only brings them under scrutiny.

Those interested in reading the opinion, the case can be accessed with the following link from the website for the United States Supreme Court: http://www.supremecourt.gov/opinions/12pdf/11-1447_4e46.pdf [mef]

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Mari Eosco

Bath: The City Council made history in December when members elected Mari Eosco as the city's first Council Chairwoman. The vote was unanimous. Eosco, a Bath native, was first elected in 2007 to fill a vacant seat. She won re-election in 2010 and in 2013. Eosco most recently served as vice chair of the council.

Boothbay Harbor: Selectman Robert Splaine resigned effective Dec. 2, citing alleged personal attacks during board meetings as a factor in his decision. Splaine, who was vice chair at the time of his resignation, served as selectman for seven years and the Planning Board for seven years before his election as selectman.

Brewer: The City Council in December honored three employees who have served a total of nearly 100 years. Brian "Hadley" Burrill was honored for 32 years of service to the city's water department; Yvonne Martin was recognized for 33 years' work as the department's office manager. Councilors also honored John Mackie, a recreation department staffer and cemeteries supervisor for 33 years.

Brunswick: Town Manager Gary Brown resigned effective March 31 or earlier after a newly constituted Town Council sought a new direction for the coastal hub. Brown was praised for his hard work during a difficult period after the retirement of long-time manager Don Gerrish. Brown worked for two years as Brunswick assistant manager and was named interim manager when Gerrish retired in January 2009. Brown then was named full-time manager and he helped lead the town through significant changes, including the closure of Brunswick Naval Air Station. Brown, who said he was not asked to resign, previously managed the town of Topsham from 2002 to 2007. He also has managed the towns of Vassalboro and China.

Hallowell: Jed Wartman resigned as a City Councilor in December, less than a year after taking office. Wartman is moving to Waterville, where he works as director of campus life at Colby College.

Rockland: City Manager James Smith resigned in December, effective Jan. 18, to return to the City of Brewer as assistant city manager. Smith served in Brewer from 2007 to 2012 and told Rockland officials his family members miss their relatives and friends, prompting him to return to Brewer. He was hired in Rockland in April 2012. Councilors were expected to name an interim manager when Smith departed.



Cornell Knight

Topsham: Maine's 2012 Manager of the Year, Cornell Knight, has resigned effective in March to join his wife, Kay Rand, in Washington, D.C. Rand is Chief of Staff to U.S. Sen. Angus King; she held the same title during King's tenure as Maine governor. Knight, 57, is a veteran Maine manager, having started in Baileyville after graduating college. He then worked as manager of Hallowell, Jay and Winthrop, respectively, before taking the top job in Topsham in February 2011. He received the Linc Stackpole Manager of the Year award in 2012 from the Maine Town, City and County Management Association. Planning Director Rich Roedner was named interim manager.



Mark Leonard

Veazie: The Town Council in December honored former Fire Chief Gerry Martin, who retired last summer, with a plaque in recognition of his 31 years of service to the community. Martin joined the department in 1981 and was named chief in 2001. Town Manager Mark

Leonard, who already had taken over the duties of the police chief, was named as Martin's replacement.

Waterville: City councilors in early December appointed Planning Board member Dana Bushee Hernandez to fill the Ward 6 council seat vacated early by Eliza Mathias. Mathias cited family and professional commitments in resigning her seat. Hernandez, 39, lost to Mathias several years ago. She has served on the Planning Board for three years. Councilors chose Hernandez over a former councilor and a business owner.

West Gardiner: Former Town Clerk Nancy O'Laughlin has been named interim town clerk until a permanent replacement can be recruited for Heidi Peckham, who resigned as clerk in early December to take a job in the Maine Secretary of State's Office. Peckham was first elected as the town's excise tax collector and administrator in 2009, replacing O'Laughlin, who retired from those jobs. Later, Peckham was elected clerk when O'Laughlin retired from that post after 30 years. A new clerk, who also will work as assistant to selectmen, will be elected during the March annual town meeting.

Correction: Municipal election results published in the December 2013 Townsman reported that John Anton was an incumbent Portland city councilor who had been defeated. However, Anton did not seek re-election; former state Rep. Jon Hinck won the open seat. It was a freelance writer's error. [mf](#)

PHOTOS: If your municipality submits a news item for the Townsman, consider sending a corresponding photo to: Eric Conrad or Jaime Clark (econrad@memun.org or jclark@memun.org)

Statewide: Maine was one of only two states to realize a true decline in population from July 2012 to July 2013, according to new U.S. Census data. Maine lost 0.01 percent, or 199 citizens, over the period, while West Virginia lost a staggering 2,376 citizens in an ongoing cycle of declining population in The Mountain State. Overall, there was a 2.2 million increase in U.S. population over the one-year period, for a total of 317 million people. Maine is the nation's oldest state, with a median age of 43.5 years, followed by New Hampshire and Vermont.

Bar Harbor: The federal government shutdown in October is being blamed as the likely culprit for a drop in retail sales of \$1 million for the month. The Town Council Chair reported she received calls and visits from business owners who suffered significantly when Acadia National Park was closed. Bar Harbor, located 15 miles east of Ellsworth, remains the state's premier tourism destination, in large part because of Acadia. Lodging held its own better than retail sales and restaurants, losing \$100,000 in revenue compared to restaurants and gift shops, which registered a loss of \$1 million, according to the Maine Bureau of Revenue Services. Statewide last October, sales increased 5 percent to \$1.48 billion.

Bath: A report by a retired Superior Court justice concluded there were mistakes made but no wrongdoing when the City Council last April voted to sell a former school valued at \$6.5 million for \$799,000. Retired Justice Robert Crowley noted that the council violated the Freedom of Access Act when members voted to sell the property, and failed to properly outline the reasons for two executive sessions about the potential sale. Crowley said failure to keep residents fully informed led some residents to become suspicious, allege wrongdoing and protest the ultimate sale price. Residents also were upset when the buyer put the building on the market for \$1.65 million.

Bridgton: Residents benefitted in December when anonymous donors pledged to match fundraising efforts

for the town's depleted fuel assistance program. The state fuel assistance program is now taking applications as far into 2014 as May, far past the worst of the heating season. One anonymous benefactor will match every \$2 raised for the Bridgton empty fuel account by \$1, up to \$5,000. Another person bought 10 infrared heaters that cost \$100 apiece.

Monhegan Plantation: Residents of and tourists to the Lincoln County island have filed written concerns with the Maine Public Utilities Commission over a proposed 50-turbine wind farm in the Gulf of Maine. The island is located about 12 miles from Port Clyde in the town of St. George. The proposed site of the farm is 2.9 miles off the southern shore of the popular five-acre island. Although some business owners and municipal officials support the project, which would slash electricity rates for the island, residents and visitors are concerned about the environmental impact of the project, as well as marine and wildlife and noise.

Saco: The city is collaborating with its cross-river neighbor Biddeford to develop a traffic plan to accommodate both cities' downtowns and mill dis-

tricts. The plan would outline strategies for traffic patterns for when mills on both sides of the Saco River are fully re-developed. The cities would then seek state approval for any final plan.

Van Buren: Town and school officials hope to develop a plan to begin sharing recreation program costs as soon as this winter. Under the early proposal, School Administrative District 24 would provide staffing for several indoor winter programs, with funding help from the town. The town would continue operating the outdoor ice skating rink.

Wilton: Police Sgt. Chad Abbott was honored by the police chief and selectmen in December for saving the life of a 15-month-old boy last September. Abbott responded to a 911 call for help with an automated defibrillator, which revived the tot. His mother, a former certified nurse assistant, performed CPR on her son while the father called for help. The parents believe Abbott saved their child, who woke up screaming and then quickly made no sounds at all. By the time Abbott arrived, the child was blue and was struggling for breath. Abbott did not leave the child until paramedics arrived. [\[mc\]](#)

NEW ON THE WEB

Highlights of what's been added at www.memun.org since the last edition of the *Maine Townsman*.

- **Executive Committee.** Michelle Beal, City Manager in Ellsworth, and Nicholas Mavodones Jr., City Councilor in Portland, recently were appointed Vice President and Past President, respectively, of Maine Municipal Association's 12-member Executive Committee.
- **Climate Change.** Climate Solutions will hold a day-long event at the Augusta Civic Center on March 12. Part of the day will focus on public policy avenues to address climate change. Other parts will be free and open to the public.
- **Land for Maine's Future.** The Land for Maine's Future Board announces a Call for Proposals for land conservation projects using funding from approximately \$10.4 million in Land for Maine's Future (LMF) bonds approved by Maine voters.
- **Future of Real Estate.** The Maine Real Estate & Development Association will host its Annual Real Estate Forecast Conference on Jan. 23 in Portland. The conference will include regional economic forecasts for Greater Bangor, southern and central Maine. This will be the largest gathering of commercial real estate professionals in Maine this year.

www.memun.org



Municipal Bulletin Board

ELECTED OFFICIALS: AUGUSTA

Attorneys and staff from MMA's Legal Services and Communication & Educational Services departments will lead a workshop for Elected Officials on Jan. 28 at the MMA Conference Center in Augusta. The evening workshop begins with registration at 4 p.m. and ends at 8:30 p.m., including a light dinner.

The workshop is designed for newly elected officials, but veteran councilors and select board members may benefit from the refresher and legal updates as well. Topics include: open meeting and records; roles and responsibilities; effective communication; and, conflicts of interest, among others. Cost for the workshop is \$55 for MMA members and \$110 for non-members.

MODERATING TOWN MEETING: AUGUSTA, MACHIAS

This evening course will be presented on Feb. 12 by MMA. It is a class designed for Moderators – new and veteran alike – to share practical experience and best practice information for running a town meeting. Topics include Moderator Fundamentals, Outline of Town Meeting, Unanimous Consent, State Laws on Meeting Procedure, Recurring Issues, Voting Methods, Motions and Suggested Rules of Debate.

The class will be held at the MMA Conference Center in Augusta and will be video streamed to the Sunrise County Economic Council's location in Machias. Dick Thompson, moderator for the Towns of Palermo, China and Vassalboro, is the presenter. Registration begins at 5:30 p.m. and the workshop will end at 8:30 p.m. The cost varies depending on location.

MANAGING FREEDOM OF ACCESS REQUESTS

Attorney Amanda Meader from MMA's Legal Services Department, Eric Conrad, Director of Communication & Educational Services at MMA, and a Town Manager with experience in this area will lead a workshop on FOAA requests on Feb. 25 at the MMA Conference Center in Augusta.

The workshop is designed for municipal staff and elected officials who

need to make good decisions about requests for public documents and what to do if confronted by so-called "serial requesters." The instruction may be particularly helpful for officially designated "Public Access Officers," which are now required under state law. Registration will begin at 1:30 p.m. The workshop concludes at 4:30 p.m. Cost is \$35. The workshop is reserved for MMA members only.

TAX LIEN PROCEDURES

This full-day course is presented by the Maine Municipal Tax Collectors' and Treasurers' Association and is designed for municipal officials and staff with direct responsibility for the tax lien process. It will be held on March 4 at Spectacular Events in Bangor and on March 19 at The Captain's Galley in Old Orchard Beach, starting with registration at 8:30 a.m. and ending at 3:30 p.m.

Topics include Proper Procedures in the Tax Lien Process, the "How To" of the Tax Lien Process and the Roles of the Assessor, Tax Collector and Treasurer. This course is an important part of the Maine Municipal Tax Collectors' and Treasurers' Association Certification Program. Cost for the workshop is \$50 for MMTCTA members and \$60 for non-members.

TOWN MEETING & ELECTIONS

The Maine Town & City Clerks' Association will hold a workshop on Town Meetings and Elections (Title 30-A) on March 5 at the MMA Conference

Center in Augusta. The meeting will be available live via videoconference at the Northern Maine Development Commission office in Caribou. Then, on March 13, the same workshop will be held at Fireside Inn & Suites in Portland.

The workshop is designed primarily for town and city clerks, but town meeting moderators and selectmen will benefit from attending as well. Among the topics to be covered: fundamentals of warrants; secret ballot elections; preparing for the meeting; role of the moderator and clerk; registrar of voters; and, others.

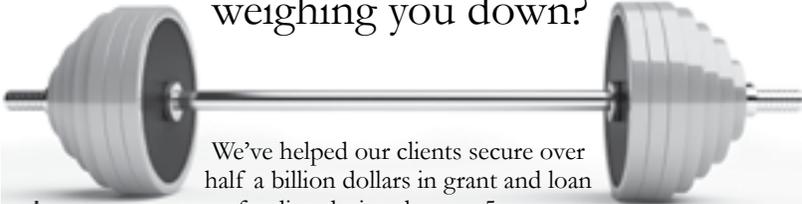
The workshops will begin with registration at 8:30 a.m. and conclude at 3:30 p.m. Presenters are Amy Dufoe, Town Clerk in Kennebunkport, and Michael Stultz, Attorney with MMA's Legal Services Department. Cost is \$55 for MTCCA members and \$75 for non-members.

MWWCA SKI DAY

Members and friends of the Maine WasteWater Control Association are invited to participate in a day of skiing, networking and fun on March 14 at the Saddleback Ski Resort near Rangeley. Recommended arrival time is between 8 a.m. and 9 a.m.

Cost is \$47 for MWWCA members per person including a lift ticket. Cost is \$56 for non-MWWCA members including a lift ticket. Non-skiers can attend for just \$15. The prices include a buffet lunch and post-skiing hors d'oeuvres and a beverage. 

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Legal Notes

PUBLIC COMMENTS & MEETING AGENDAS

Last month's piece on adding a public comment period to a board's agenda (see "Public Comment Period," *Maine Townsman*, "Legal Notes," December 2013) prompted several readers to ask whether a board is required to have an agenda. To answer this question, here's a reprise of a "Legal Note" from the August-September 2009 *Maine Townsman*:

BOARD MEETING AGENDAS

Question: Are municipal boards legally required to post an agenda for their meetings?

Answer: Generally speaking, no, unless required by municipal charter or ordinance or board bylaws or rules of procedure.

Maine's Freedom of Access or "Right to Know" law of course requires public notice of all municipal board meetings ("public proceedings"), but the law does not prescribe the contents of this notice, and Maine's Attorney General long ago opined that the Right to Know law does not require notice to include an agenda (*Op. Me. Att'y. Gen.*, Oct. 6, 1981).

Nevertheless, we recommend an agenda, or at least a general description of business to be transacted, for several reasons. First, an agenda tells both the public and the board what business the board expects to conduct, and in so doing permits everyone to be better prepared. Second, an agenda lets the public know approximately when, during the meeting, an item of interest may be discussed. Third, an agenda helps ensure the fair, orderly and efficient conduct of business and can be an invaluable aid to the chairman or presiding officer.

We also recommend that agendas, besides listing anticipated items of business, include a catch-all item for "other business." This is because there is a common (but generally incorrect) belief that a board may not act on a matter unless it is identified on the agenda. This is true for town meetings and town meeting warrants, of course, but not for municipal boards

unless barred by charter, ordinance or bylaws. Adding "other business" to the agenda may mollify those who claim (again, generally incorrectly) that the board's business is confined to the agenda.

The above "Legal Note" from 2009 originally ended with the observation that municipal boards are not generally required to take minutes either, but this is no longer wholly accurate. In 2011 the Freedom of Access Act (FOAA) was amended to require a limited "record" of most board meetings (see "FOAA Now Requires Record of Meetings," *Maine Townsman*, "Legal Notes," October 2011).

For more on the "open meeting" requirements of Maine's Right to Know law, see our "Information Packet" on the subject, available free to members at www.memun.org. (By R.P.F.)

SECONDHAND GOLD DEALERS: MUNICIPAL PERMIT REQUIRED

Somehow we missed it, but the

Maine Legislature in 2013 enacted a new law requiring dealers in second-hand precious metals (gold and silver) to obtain a permit from the municipal officers (selectmen or councilors) in any municipality in which they have a permanent place of business. The law is located at 30-A M.R.S.A. § 3972 and became effective Oct. 9, 2013.

The new law is sparse on permit details, but it appears to be a one-time permit with an indefinite term. The permit must identify the location of the business and may require other reasonable information about the identity of the participants. The municipal officers may not issue a permit if it would be "detrimental to the public health, safety or welfare." Operating a secondhand precious metals business without a municipal permit or in violation of any of the recordkeeping requirements under the law is a Class E crime.

It should be noted that the law does not apply to licensed auctioneers or to dental gold, unrefined ore, elec-



Municipal Calendar

ON OR BEFORE FEBRUARY 15 — Written statements, as prescribed by State Tax Assessor, of wages withheld in the previous calendar year is to be furnished each employee (36 MRSA § 5251).

— Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333-0011 [22 MRSA §4311].

FEBRUARY 17 — Presidents' Day, the third Monday in February, is a legal holiday (4 MRSA § 1051); and shall be observed as a school holiday in the absence of any vote of the superintending school committee designating how the day shall be observed (20-A MRSA § 4802).

BEFORE TOWN MEETING — Selectmen must have a warrant posted at least 7 days before town meeting and have a constable or designated resident make return (30-A MRSA §2523). If adoption

of an ordinance is proposed, make sure of compliance with 30-A MRSA §3002. Send copy of town report to the following: MAINE MUNICIPAL ASSOCIATION, State Tax Assessor, State Auditor and State Librarian.

— Town Meeting voter registration and voting list requirements. The registrar shall accept the registration and enrollment of voters prior to the municipal election according to the time schedule prescribed by 21-A MRSA § 122 unless changed by municipal officers.

— Copies of annual report are to be deposited in the municipal office or a convenient place of business for distribution to voters at least 3 days prior to the annual meeting (30-A MRSA § 2801)

— Check 30-A MRSA § 5823 for audits, and § 2801 for town reports.

BY MARCH 1 — Solid Waste Municipal Reporting forms are due back to the State Planning Office, 38 State House Station, Augusta Me 04333 [38 MRSA §2125(1)].



tronic or automotive parts, or coins or bullion.

For a sample all-in-one application and permit form, go here: <http://goo.gl/ArY7t1> (By R.P.F.)

ARE PETITIONS PUBLIC?

Question: Several of our residents were annoyed recently after we publicly released a voter petition they had signed. Aren't voter petitions public records?

Answer: Of course they are. Maine's Freedom of Access Act (FOAA) defines "public records" as "any written, printed or graphic matter or any mechanical or electronic data... that is in the possession or custody of an agency or public official... and has been received or prepared for use in connection with the transaction of public or governmental business."

A voter petition, once submitted to municipal officials, clearly constitutes a public record within this definition. As such, it is fully subject to public inspection and copying upon request (see 1 M.R.S.A. § 408-A). Anyone signing such a petition should have known this and shouldn't have signed it if they were concerned about the potential publicity.

Signers of petitions will sometimes seek to withdraw their signatures, but after a petition has been filed, there is no recognized procedure for withdrawing a signature, and we recommend that it be disallowed on the basis that the petition has become a public document and is not to be tampered with in any manner. Signers who've had a change of heart can disavow their support in other ways, such as by speaking out and voting against the measure.

As with the withdrawal of signatures after filing, there is no procedure for withdrawing a petition or any portion of it after filing, and again we recommend against allowing it. Not only is the petition at that point a public document, the signers are also entitled to public consideration of the question presented; second thoughts by the petition's circulator should not be permitted to frustrate the expectations of its signers.

For more on voter petitions, see "Voter Petitions: A Primer," *Maine Townsman*, "Legal Notes," February 2010, or see MMA's *Town Meetings & Elections Manual*, Chapter 5, available free to members at www.memun.org. (By R.P.F.)

CORRECTION: TIME LIMITS FOR LAND USE VIOLATIONS

An alert reader spotted an oversight in our column last month on prosecuting land use violations (see "A Statute of Limitations For Land Use Violations?," *Maine Townsman*, "Legal Notes," December 2013). We said there is no statute of limitations or time limit under Maine law for prosecuting municipal land use violations. But there is one exception:

An illegal subdivision in existence for at least 20 years is not subject to prosecution for violation of the municipal subdivision law unless (1) the subdivision has been enjoined by court order, (2) subdivision approval was denied and recorded in the registry of deeds, (3) a building permit was denied and recorded in the registry of deeds, or (4) the subdivision has been subject to an enforcement order recorded in the registry of deeds (see 30-A M.R.S.A. § 4402(5)).

We always welcome feedback from our readers, and we regret the oversight. (By R.P.F.)

DOG LICENSE LATE FEES

Question: Does a municipality have any discretion to waive the late fee for a dog license?

Answer: Absolutely not. The \$25 late fee for dog licenses applied for after Jan. 31 is imposed by State statute, and nothing in the law vests any discretion in a municipal clerk or any other official to waive this fee (see 7 M.R.S.A. § 3923-A(4)). The statute's use of the mandatory words "shall pay," together with the absence of any mention of authority to waive the fee, makes this clear.

The late fee is payable of course *in addition to* the annual license fee before any license applied for after Jan. 31 can be issued. While part of the annual license fee must be paid over to the State's Animal Welfare Fund (the amount depends on the type of license), all of the late fee must be deposited in the municipality's animal welfare account. This account must be used for the costs of animal control, enforcement of licensing laws, and so on; it is non-lapsing (see 7 M.R.S.A. § 3945).

As we've noted before, municipalities do have authority to enact ordinances regulating dogs, but they must be "more stringent" than the State's dog laws; any less restrictive ordinance is unenforceable (see 7 M.R.S.A. § 3950). We interpret this to mean that, among other things, a municipality could not adopt an ordinance with lower license or late fees or authorizing waiver of these statutory fees. For some examples of ordinances a municipality could adopt, see "Dog Ordinances," *Maine Townsman*, "Legal Notes," June 2011. (By R.P.F.) [\[ME\]](#)



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2014 SPRING BOND ISSUE SCHEDULE

Capital financing through the Bond Bank's General Bond Resolution Program allows borrowers to take advantage of the Bond Bank's high investment grade rating, low interest rates and reduced issuance and post issuance costs. Traditionally twice a year, in the spring and fall, the Bond Bank will consolidate eligible applicants and engage in a bond sale. From application to receipt of funds the bond issuance process usually lasts three to four months. Below is the schedule for the Bond Bank's Spring Issue.

FEBRUARY						
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	1

MARCH						
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

APRIL						
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

MAY						
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Wednesday, February 5th
Application Deadline.

Wednesday, March 19th
Application approval (Board Meeting).

Monday, April 7th
Preliminary opinions and loan agreements due from bond counsel of each borrower.

Wednesday, April 9th
Last date for signing school contracts and rates in place for water districts. PUC Approvals due.

Monday, April 21st & Tuesday, April 22nd
Maine Municipal Bond Bank Pricing.

Wednesday, April 23rd
Maine Municipal Bond Bank Sale Meeting (Board Meeting).

Tuesday, May 13th
Final documents due from bond counsel.

Wednesday, May 21st
Pre-Closing.

Thursday, May 22nd
Closing - Bond Proceeds Available (1:00 PM)

If you would like to participate in or have any questions regarding the 2014 Spring Bond Issue, please contact Toni Reed at 1-800-821-1113, (207)622-9386 or tir@mmbb.com.



Congratulations are in order.

Bernstein Shur's Municipal and Regulatory Practice Group welcomes two new shareholders in 2014.



Shana Cook Mueller has been with the firm since 2006. Based in the Portland, Maine office, her municipal practice focuses on economic development, tax increment financing, public finance/municipal bonds, land use law, and general municipal law including property tax matters, zoning issues, amending ordinances and more. A resident of North Yarmouth, Maine, Mueller earned her JD from the University of Connecticut, an MPA from the University of Connecticut Department of Public Policy and her BA from Brown University.



Philip Saucier has been with the firm since 2010. Based in the Portland, Maine office, his municipal practice focuses on land use and development matters, zoning issues, administrative and judicial appeals, legislative affairs, and general municipal law including elections, Freedom of Access Act, and drafting ordinances. He is chair of the Maine State Bar Association's Municipal Law Section. A resident of Portland, Maine, Saucier earned his JD from the University of Maine School of Law, *cum laude*, where he was editor in chief of the *Maine Law Review* and earned his BA from Vassar College.

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